

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of MARIA WARNER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARINA IVANOVA,

Respondent-Appellant,

and

JAMES WARNER,

Respondent.

In the Matter of JOHN WARNER, Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

MARINA IVANOVA,

Respondent-Appellant,

and

JAMES WARNER,

Respondent.

Before: Sawyer, P.J., and Neff and White, JJ.

UNPUBLISHED

February 6, 2007

No. 270822

Kent Circuit Court

Family Division

LC No. 04-057039-NA

No. 270823

Kent Circuit Court

Family Division

LC No. 04-057182-NA

PER CURIAM.

In these consolidated appeals, respondent Marina Ivanova appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

In order to terminate parental rights, the trial court must find that at least one statutory ground has been established by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). We review that finding under the clearly erroneous standard. MCR 3.977(J).

Respondent contends that the trial court clearly erred in terminating her parental rights because no services were provided to her while she was incarcerated, because she attended parenting classes and counseling sessions, and because there was testimony that she would be able to provide proper care within a reasonable amount of time. We conclude that the trial court did not clearly err in finding that the conditions that led to adjudication continued to exist and that there was no reasonable likelihood that the conditions would be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(i).

Respondent acknowledges that when the children were brought into care, they were in a neglectful situation.¹ Respondent's treatment plan included that she address her parenting skills and emotional stability, and obtain housing and employment. The trial court noted that this is the second time that respondent has been involved in child protective proceedings, and that services and assistance were provided to respondent in the prior case. The court noted that the minor children had been involved in protective services for approximately fifty percent of their lives because of neglect and abuse by their parents. Further, although respondent convinced the counselors that she had made remarkable progress in the prior case, and was committed to the welfare of her children, within only one-and-a-half years, the children were found in a "filthy, unsafe, feces-laden house" and had to again be removed from her care. The court found that respondent still had not taken responsibility for her actions.

Although respondent was unable to actively participate in services while she was incarcerated,² once she was released, services were provided. In addition, the trial court adjourned the termination hearing to allow respondent more time to comply with the treatment plan. The court found that despite countless hours of assistance and services, respondent had made no progress and had either ignored or refused to comply with the services plan.

Respondent contends that the trial court erred in finding that there was no reasonable likelihood that this condition would be rectified within a reasonable time because Dr. Thomas

¹ The police found respondent's young children home alone. Respondent pleaded guilty to two counts of second-degree child abuse, and was placed on probation for five years.

² Respondent was not incarcerated on the child abuse charges, but rather because she was on an immigration detainer.

Spahn testified that she needed six to nine months to grasp the situation and begin to resolve the issues that she faced. However, Dr. Spahn concluded, "The indications from the psychological would generally result with an opinion that there would need to be considerable stabilization, and one would wonder if she would show improvement in six to nine months after being involved in care and support services."

Moreover, Dr. Spahn was asked if respondent would be able to parent her children with proper services and medication, to which he replied:

I'm -- I'm not going to say that. There would have to be an awful lot of evidence that would suggest she would go through all that and that there was significant improvement before I would support that.

Testimony indicated that respondent refused medication and, thus, failed to fully address her mental health issues through therapy and medication. Accordingly, the trial court did not clearly err in finding that the condition that led to adjudication would not be rectified within a reasonable time considering the children's ages. MCL 712A.19b(3)(c)(i).

This evidence also established grounds for termination under MCL 712A.19b(3)(g) and (j). Respondent's failure to address her mental health issues supports the trial court's finding that respondent failed to provide proper care, that there was no reasonable expectation that she would be able to provide such care within a reasonable time considering the children's ages, and that there was a reasonable likelihood that the children would be harmed if returned to her care.

Affirmed.

/s/ David H. Sawyer
/s/ Janet T. Neff
/s/ Helene N. White